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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,315	06/21/2005	David A Eves	GB 020255	1627
24737 7590 02/21/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER GADDY, BENJAMIN E	
			ART UNIT	PAPER NUMBER
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			02/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,315

Applicant(s)

EVES ET AL.

Examiner

Benjamin E. Gaddy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/10/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Augmenting an audio signal via extraction of musical features and creation of media fragments."

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 21 is directed towards computer code, and towards a carrier wave, which does not fall into a recognized statutory category. Examples of acceptable preambles include: "a computer readable medium encoded with computer executable instructions" or "a computer readable medium having a stored computer program." For the purposes of examination, it will be assumed that the applicant intended to claim a computer-readable article of manufacture embodying the claimed code.

Claim 22 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 21 is directed towards a database, which does not fall into a recognized statutory category, and has no enabling function. Examples of acceptable preambles include: "a computer readable medium encoded with computer executable instructions" or "a computer readable medium having a stored computer program."

For the purposes of examination, it will be assumed that the applicant intended to claim a computer-readable article of manufacture embodying the claimed code.

Claims 21 and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are hybrid claims. Claims 21 attempts to claim computer code, but depends from a claim to a method. Claim 22 attempts to claim a database, but depends from a claim to a system. For the purposes of examination, it will be assumed that each claim is written in independent format and fully includes all of the limitations recited in the claims from which each depends.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9-10, 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yourlo (US 6,201,176) in view of Mitton (US 6,355,869).

Consider claims 1, 17, 21, and 22: Yourlo discloses augmenting an audio signal (see **Figure 1**) comprising: receiving an audio signal (see **Col. 4, lines 17-23, where Yourlo discusses inputting music**), extracting features from said audio signal (see **Col. 4, lines 60-65, where Yourlo discusses feature extraction**), generating a time based table of dramatic parameters according to the extracted features (see **Col. 6, lines 19-42, where Yourlo discusses**

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analysing, e.g. tempo, for each successive time window), obtaining media fragments at least in part in dependence on the table of dramatic parameters (see Col. 5, lines 5-10, where Yourlo discusses extracting), and outputting said media fragments (see Col. 5, lines 7-11, where Yourlo discusses outputting).

Yourlo does not specifically disclose a time-ordered table, however Mitton discloses a time-ordered table (see Col. 5, lines 12-22, where Mitton discusses a pseudo wave file with a series of pitch coefficients). It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Yourlo, and use a time-ordered table as taught by Mitton, thus allowing a user to produce a musical score from a recording, as discussed by Mitton (see Col. 1, lines 55-60).

Consider claim 2: Yourlo discloses features extracted from said audio signal include tempo (see Col. 6, lines 19-42).

Consider claim 3: Yourlo discloses the generation of said table of dramatic parameters comprises retrieving a list of dramatic parameters and associated audio features (see Col. 5, lines 1-5, where Yourlo discusses a search), comparing and matching the extracted features with the retrieved associated audio features (see Col. 5, lines 1-10, where Yourlo discusses selecting), and inserting an entry comprising the dramatic parameter associated with the audio feature (see Col. 5, lines 36-45, where Yourlo discusses tempo data).

Consider claim 4: Yourlo as modified by Mitton discloses dramatic parameters include incidents (see Col. 5, lines 23-33, where Mitton discusses events).

Consider claim 5: Yourlo discloses obtaining said media fragments comprises selecting a fragment from a store (**see Figure 2**), said fragment being stored with an associated dramatic parameter which matches the respective entry in the table of dramatic parameters (**see Col. 5, lines 1-10, where Yourlo discusses searching**).

Consider claim 6: The combination of the above discloses generating a fragment.

Consider claim 7: Yourlo discloses receiving user input, said user input affecting said obtaining (**see Col. 5, lines 1-5, where Yourlo discusses the user query is input**).

Consider claims 9 and 18: Yourlo as modified by Mitton discloses storing said media fragments and said audio signal (**see Col. 4, line 55-67, where Yourlo discloses storing**).

Consider claim 10: Yourlo as modified by Mitton discloses rendering said media fragments and said audio signal (**see Col. 5, lines 5-10, where Yourlo discusses outputting**).

Consider claim 16: Yourlo as modified by Mitton discloses combinations of extracted features have associated dramatic parameters.

Consider claim 19: Yourlo discloses display means on which said media fragments are displayed (**see Fig. 22, part 2224**).

Consider claim 20: Yourlo as modified by Mitton discloses output device is responsive to instructions associated with said dramatic parameters.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yourlo (US 6,201,176) in view of Mitton (US 6,355,869) as applied to claim 1 above, and further in view of Grubb (US 5,913,259).

Consider claim 8: Yourlo and Mitton discloses media fragments include data.

Yourlo and Mitton do not specifically disclose video, however Grubb discloses video (**see Col. 12, lines 45-53, where Grubb discloses video**). It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Yourlo and Mitton, and use video as taught by Grubb, thus providing efficient implementation of the system, as discussed by Grubb (**see Col. 2, lines 11-15**).

5. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yourlo (US 6,201,176) in view of Mitton (US 6,355,869) as applied to claim 1 above, and further in view of Yamron (US 6,052,657).

Consider claims 11-14: Yourlo and Mitton disclose dramatic parameter data, matching dramatic parameters to media fragments, and selecting and generating according to dramatic parameter lists.

Yourlo and Mitton do not specifically disclose a narrative structure, however Yamron discloses a narrative structure (**see Col. 7, lines 55-60, where Yamron discusses a topic and Col. 8, lines 10-20**). It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Yourlo and Mitton, and use a narrative structure as taught by Yamron, thus enabling identification of topics, as discussed by Yamron (**see Col. 1, lines 54-57**).

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yourlo (US 6,201,176) in view of Mitton (US 6,355,869) as applied to claim 1 above, and further in view of Williams (US 6,308,154).

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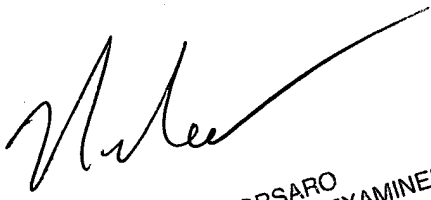
Consider claim 15: Yourlo and Mitton disclose dramatic parameters are represented.

Yourlo and Mitton do not specifically disclose instruction set of a markup language, however Williams discloses instruction set of a markup language (see Col. 3, lines 2-8, where Williams discusses attributes are encoded using a markup language and markup indicators). It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Yourlo and Mitton, and use instruction set of a markup language as taught by Williams, thus allowing measurement and encoding of recognized content, as discussed by Williams (see Col. 1, lines 52-57).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E. Gaddy whose telephone number is (571) 270-5134. The examiner can normally be reached on M-TH 9am - 4pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



NICK CORSARO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

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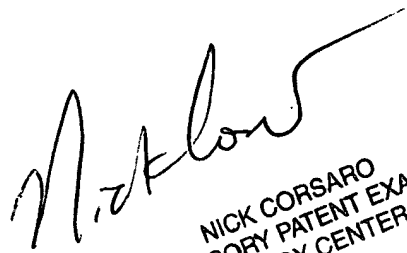
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Benjamin E. Gaddy

/Benjamin E Gaddy/

Examiner, Art Unit 4181

2/14/2008



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